

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CORPORATE TRAINING	:	CIVIL ACTION
TECHNOLOGIES, INC.	:	
d/b/a BankersEdge	:	
	:	
v.	:	
	:	
EDCOMM, INC.	:	NO. 08-cv-02128-JF

AMENDED MEMORANDUM AND ORDER

Fullam, Sr. J.

November 6, 2008

Plaintiff asserts that the defendant's President circulated an email containing numerous false statements about the plaintiff, in an effort to cause potential customers to do business with the defendant rather than the plaintiff (the two companies are direct competitors). The complaint alleges violations of the Lanham Act, the torts of defamation and unfair competition, etc. As filed, the complaint also asserted a claim for improper interference with prospective contractual relations (Count III) and commercial disparagement (Count V), but those counts have been withdrawn by plaintiff.

The defendant has filed a motion to dismiss under Fed. R. Civ. P. 12(b)(6). I readily conclude, however, that the complaint withstands dismissal under that Rule, and that plaintiff should be afforded an opportunity to develop support for its claims through discovery. There may be some difficulty in establishing that the controversial email was circulated to a wide-enough audience to qualify under the Lanham Act, or that plaintiff can

establish that it suffered actual damages, but these are issues which cannot be addressed at this stage of the proceedings. Except as to Counts III and V, the motion to dismiss will be denied.

An Order follows.

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CIVIL ACTION

NO. 08-cv-02128-JF

AMENDED ORDER

AND NOW, this 6th day of November 2008, IT IS ORDERED:

1. Counts III and V of plaintiff's complaint, having
been withdrawn, are now DISMISSED.

2. In all other respects, defendant's motion to
dismiss the complaint is DENIED.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.